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Subject: State representative calls for probe of DEP water testing reports

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By Don Hopey / Pittsburgh Post-Gazette

The Pennsylvania Department of Environmental Protection has created incomplete lab reports and used them to dismiss complaints that Marcellus Shale gas development operations have contaminated residential water supplies and made people sick, according to court documents and other sources.

As a result, state Rep. Jesse White, D-Cecil, today called on state and federal law enforcement agencies to investigate the DEP for "alleged misconduct and fraud" described in sworn depositions in a civil case currently in Washington County Common Pleas Court.

"This is beyond outrageous," Mr. White said in a press release. "Anyone who relied on the DEP for the truth about whether their water has been impacted by drilling activities has apparently been intentionally deprived of critical health and safety information by their own government."

The DEP quickly responded Mr. White's statements in an email to the Post-Gazette. Department spokesman Kevin Sunday said the DEP's testing lab received a "glowing" review last year in a peer review by the Association of Public Health Laboratories. He added, "Jesse White is ideologically opposed to responsible drilling regulations which is evidenced by, among other things, his vote against Act 13," a state law that regulates Marcellus Shale drilling and gas production.

"The battery of analyses we order during investigations are thorough and give us the results we need to make sound determinations, which we fully stand behind," Mr. Sunday said.

"DEP takes very seriously instances where we do determine gas migration has occurred from drilling -- this administration issued the largest single civil penalty in the history

of the state's oil and gas program last year for such a case."

Mr. White's call for an investigation came after the release of two depositions of DEP employees, one of whom, Taru Upadhyay, the division director of DEP's Bureau of Laboratories, said the department's lab reports to property owners didn't contain a full array of contaminants found by the lab's testing.

Mr. White said there's no excuse for withholding some of the water test results because they could hold the key to residents' water supply problems.

"If these allegations are true, there needs to be a thorough and objective investigation to determine if someone belongs in a jail cell," he said.

In her deposition, Ms. Upadhyay said the department's oil and gas division directed the lab to generate water test reports to homeowners that omitted the full menu of findings for heavy metals, including lithium, cobalt, chromium, boron and titanium, some of which are human carcinogens, as well as volatile organic compounds that are associated with hydraulic fracturing fluids.

Those metals are Marcellus Shale markers, found in the shale layer a mile or more underground in Pennsylvania. They are released by hydraulic fracturing or "fracking" of the shale and can be carried by flowback fluids to the surface.

Finding them and certain volatile organic compounds in the water test results would link contamination of groundwater to gas well drilling and fracking operations, said John Smith, an attorney with Smith Butz, a firm representing eight people in the Washington County case against Range Resources and 12 of its subcontractors. Their case contends that they face serious health problems and increased cancer risk due to exposure to toxic chemicals in their air and well water near Range's Yeager drill site in Amwell.

"Despite these significant health consequences, the DEP purposely never considered information concerning all of these metals in each of the plaintiffs' water supplies before making any of its determinations and purposely failed to alert the plaintiffs to their presence," said Mr. Smith in a court filing Wednesday.

Kendra Smith, another Smith Butz attorney, today sent a 10-page letter to DEP Secretary Michael Krancer about the incomplete test results and requested a review of the practice. She sent copies of the letter to state Attorney General Linda Kelly; the U.S. Environmental Protection Agency, Region III; David Hickton, U.S. Attorney for the Western District of Pennsylvania; and five state legislators.

According to the deposition transcript, Ms. Upadhyay said the DEP's state laboratory tests water samples for a full battery of contaminants, but at the direction of the

department's Office of Oil and Gas Management, limits the number of contaminants reported to the oil and gas division and the property owner.

In a second deposition filed in the case, John Carson, a DEP water quality specialist, said a special lab code for Marcellus Shale water contamination complaints is used statewide. He also said the department failed to provide its water quality specialists with training to help them interpret the lab reports and identify contaminants that could signal Marcellus Shale-related impacts.

A Post-Gazette review of DEP water quality reports generated under the department's "942 Suite Code" found that those reports didn't disclose all of the contaminants found in well water samples. The water complaints in these cases were dismissed because the abbreviated reports did not support the property owner complaints in Amwell, Washington County, the Woodlands area in Butler County, and Dimock in Susquehanna County.

Ms. Upadhyay's statements came in response to questions from Ms. Smith and are contained in a 336-page transcript of her deposition taken Sept. 26 for an Environmental Hearing Board case. The case, brought by Loren Kiskadden of Amwell, alleges that DEP's investigation of his well-contamination complaint was inaccurate and incomplete.

The depositions were filed as supporting documents in the related Washington County Court case. In that case, four homeowners, including Mr. Kiskadden, who live near the Yeager well site, allege their private water supplies were contaminated and they suffered a variety of health problems.

Range, owner of the Yeager well site, has denied any responsibility for any contamination from its operations, which included three wells, a 13 million-gallon impoundment and a drill cuttings pit.

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